THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.23357 of 2007

Date 13.11.2007

Between:
Sri Vyasa Ashramam.

..... PETITIONER

AND

The Revenue Divisional Officer, Tirupathi, Chittoor District & others.

.....RESPONDENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.23357 of 2007

O R D E R:

Petitioner, Sri Vyasa Ashramam, was initially registered as a Religious Institution under Section 43 of Act 2 of 1927. The Inspector of Endowments Department by issuing certificate dated 26-10-1990 certified the land of the petitioner-Ashramam admeasuring Ac.4.05 cents in Sy.No.260 of Amandhur village. The property was shown in the said certificate. Since the petitioner was sought to dispossess from the said land without following due process of law, it filed W.P.No.4903 of 2007 and this Court by order dated 20-03-2007 disposed of the said writ petition. It is just and proper to extract the contents of the said order, which reads as follows:

> "It is the case of the petitioner that the Ashramam was established by Sri Sri Sri Malayala Swamyvaru on 03-06-1926, and during the course of its existence it has acquired certain properties, who particulars are mentioned in the register of Charitable Institutions. It is also the case of the petitioner that the subject land is also the property of Ashramam, which was endowed by Pajas of Venkatagiri in 1935. the petitioner is proposing to construct a Hospital with fifty beds in the and comprised in Sy.No.2609 and also in Sy.No.96. It is alleged that on 0-1-03-2007 the third respondent came along with his subordinates and fixed boundary stones surrounding the land so as to allot the same as house sites under the Integrated Novel Development in Rural and Modal Municipal Areas (INDIRAMMA) scheme. Aggrieved by the same, the present Writ Petition is filed.
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> After getting instructions, the learned Assistant Government Pleader for Revenue (General-A) submits that the Mandal Revenue Officer has only visited the site, and no steps, as yet, are taken for acquiring the land. He also submits that during the inspection, the Mandal Revenue Officer found that the petitioner was trying to encroach into the Government land. He adds that as and when the records are verified appropriate action will be taken in due course of time, and the allegation that the Mandal Revenue Officer tried to

dispossess the petitioner is not correct.

There cannot be any denial that a person, who is in occupation of the Government land, cannot be evicted without due process of law. As the legal position is admitted by both the learned counsel, the Writ Petition is disposed of observing that unless and until appropriate action is taken as per law, the petitioner cannot be deprived of its right in using the property. No costs."

As on the date of the disposal of the said writ petition, the possession of the petitioner-Ashramam was not in dispute and this Court directed that the petitioner-Ashramam cannot be deprived of its right in using the property unless appropriate action is taken as per law. Thereafter, the Tahsildar, Yerpedu Mandal, vide proceedings dated 25-04-2007, held that the petitioner failed to produce documentary evidence in respect of the claim over the land and accordingly the said land was Government land. As against the said order dated 25-04-2007, the petitioner filed an appeal before the Revenue Divisional Officer, Tirupathi. As the appellate Court has not passed any orders protecting the interest of the petitioner-Ashramam, it filed W.P.No.18957 of 2007. This Court disposed of the said writ petition directing the appellate authority to consider and dispose of the appeal after giving due opportunity to the petitioner in accordance with law. This Court further directed that pending disposal of the appeal, the respondents shall not dispossess the petitioner from the land in question. Petitioner contends that though the appeal is pending, the second respondent is proceeding with construction of houses under Indiramma Housing Scheme.

Learned Government Pleader for Revenue submits that the house site pattas were granted in respect of the said land in the year 2006 and, therefore, construction of houses is under progress.

When this Court disposed of W.P.No.4903 of 2007, it was not the contention of the Government that the house site pattas were granted and the petitioner-Ashramam was not in possession. In fact,

the learned Government Pleader for Revenue after getting instructions submitted that the petitioner was trying to encroach into the land and that the Mandal Revenue Officer never tried to dispossess the petitioner. In the circumstances, I am of the opinion that unless the land in Sy.No.260 of Ac.4.05 cents of Amandhur village is thoroughly surveyed and identified, it is not just and proper to deprive the petitioner-Ashramam from the said land in possession. However, when the appeal is pending, it may not be just and proper for the respondents to proceed with construction of houses.

Having regard to the facts and circumstances of the case, since admittedly, appeal No.H 1161/2007 is pending before the first respondent-Revenue Divisional Officer, Tirupathi, the Writ Petition is disposed of directing the first respondent to consider and dispose of the appeal. Pending disposal of the appeal, the respondents are directed not to raise any structures in respect of the land in question. There shall be no order as to costs.

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13-11-2007

Note:Communicate the operative
portion by wire tomorrow
B/o
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